

Amendment No.6

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative McFarland offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 501.173, Florida Statutes, is created to read:

501.173 Consumer data privacy.-

(1) APPLICABILITY.-This section applies to any entity that meets the definition of controller, processor, or third party, and that buys, sells, or shares personal information of Florida consumers. This section does not apply to entities that do not buy, sell, or share personal information of Florida consumers and such entities do not have to comply with this section. This section also does not apply to:

(a) Personal information collected and transmitted that is

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17 necessary for the sole purpose of sharing such personal
18 information with a financial service provider solely to
19 facilitate short term, transactional payment processing for the
20 purchase of products or services.

21 (b) Personal information collected, used, retained, sold,
22 shared, or disclosed as deidentified personal information or
23 aggregate consumer information.

24 (c) Compliance with federal, state, or local laws.

25 (d) Compliance with a civil, criminal, or regulatory
26 inquiry, investigation, subpoena, or summons by federal, state,
27 or local authorities.

28 (e) Cooperation with law enforcement agencies concerning
29 conduct or activity that the controller, processor, or third
30 party reasonably and in good faith believes may violate federal,
31 state, or local law.

32 (f) Exercising or defending legal claims.

33 (g) Personal information obtained through the controller's
34 direct interactions with the consumer, if collected in
35 accordance with the provisions of this section, that is used by
36 the controller or the processor that the controller directly
37 contracts with for advertising or marketing services to
38 advertise or market products or services that are produced or
39 offered directly by the controller. Such information may not be
40 sold, shared, or disclosed unless otherwise authorized under
41 this section.

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42 (h) Personal information of a person acting in the role of
43 a job applicant, employee, owner, director, officer, contractor,
44 volunteer, or intern of a controller, that is collected by a
45 controller, to the extent the personal information is collected
46 and used solely within the context of the person's role or
47 former role with the controller.

48 (i) Protected health information for purposes of the
49 federal Health Insurance Portability and Accountability Act of
50 1996 and related regulations, and patient identifying
51 information for purposes of 42 C.F.R. part 2, established
52 pursuant to 42 U.S.C. s. 290dd-2.

53 (j) A covered entity or business associate governed by the
54 privacy, security, and breach notification rules issued by the
55 United States Department of Health and Human Services in 45
56 C.F.R. parts 160 and 164, or a program or a qualified service
57 program as defined in 42 C.F.R. part 2, to the extent the
58 covered entity, business associate, or program maintains
59 personal information in the same manner as medical information
60 or protected health information as described in paragraph (i),
61 and as long as the covered entity, business associate, or
62 program does not use personal information for targeted
63 advertising with third parties and does not sell or share
64 personal information to a third party unless such sale or
65 sharing is covered by an exception under this section.

66 (k) Identifiable private information collected for

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67 purposes of research as defined in 45 C.F.R. s. 164.501
68 conducted in accordance with the Federal Policy for the
69 Protection of Human Subjects for purposes of 45 C.F.R. part 46,
70 the good clinical practice guidelines issued by the
71 International Council for Harmonisation of Technical
72 Requirements for Pharmaceuticals for Human Use, or the
73 Protection for Human Subjects for purposes of 21 C.F.R. parts 50
74 and 56, or personal information that is used or shared in
75 research conducted in accordance with one or more of these
76 standards.

77 (l) Information and documents created for purposes of the
78 federal Health Care Quality Improvement Act of 1986 and related
79 regulations, or patient safety work product for purposes of 42
80 C.F.R. part 3, established pursuant to 42 U.S.C. s. 299b-21
81 through 299b-26.

82 (m) Information that is deidentified in accordance with 45
83 C.F.R. part 164 and derived from individually identifiable
84 health information as described in the Health Insurance
85 Portability and Accountability Act of 1996, or identifiable
86 personal information, consistent with the Federal Policy for the
87 Protection of Human Subjects or the human subject protection
88 requirements of the United States Food and Drug Administration.

89 (n) Information used only for public health activities and
90 purposes as described in 45 C.F.R. s. 164.512.

91 (o) Personal information collected, processed, sold, or

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92 disclosed pursuant to the federal Fair Credit Reporting Act, 15
93 U.S.C. s. 1681 and implementing regulations.

94 (p) Nonpublic personal information collected, processed,
95 sold, or disclosed pursuant to the Gramm-Leach-Bliley Act, 15
96 U.S.C. s. 6801 et seq., and implementing regulations.

97 (g) A financial institution as defined in the Gramm-Leach-
98 Bliley Act, 15 U.S.C. s. 6801 et seq., to the extent the
99 financial institution maintains personal information in the same
100 manner as nonpublic personal information as described in
101 paragraph (p), and as long as such financial institution does
102 not use personal information for targeted advertising with third
103 parties and does not sell or share personal information to a
104 third party unless such sale or sharing is covered by an
105 exception under this section.

106 (r) Personal information collected, processed, sold, or
107 disclosed pursuant to the federal Driver's Privacy Protection
108 Act of 1994, 18 U.S.C. s. 2721 et seq.

109 (s) Education information covered by the Family
110 Educational Rights and Privacy Act, 20 U.S.C. s. 1232(g) and 34
111 C.F.R. part 99.

112 (t) Information collected as part of public or peer-
113 reviewed scientific or statistical research in the public
114 interest and that adheres to all other applicable ethics and
115 privacy laws, if the consumer has provided informed consent.
116 Research with personal information must be subjected by the

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117 controller conducting the research to additional security
118 controls that limit access to the research data to only those
119 individuals necessary to carry out the research purpose and
120 subsequently deidentified.

121 (u) Personal information disclosed for the purpose of
122 responding to an alert of a present risk of harm to a person or
123 property or prosecuting those responsible for that activity.

124 (v) Personal information that is disclosed when a consumer
125 uses or directs a controller to intentionally disclose
126 information to a third party or uses the controller to
127 intentionally interact with a third party. An intentional
128 interaction occurs when the consumer intends to interact with
129 the third party, by one or more deliberate interactions.
130 Hovering over, muting, pausing, or closing a given piece of
131 content does not constitute a consumer's intent to interact with
132 a third party.

133 (w) An identifier used for a consumer who has opted out of
134 the sale or sharing of the consumer's personal information for
135 the sole purpose of alerting processors and third parties that
136 the consumer has opted out of the sale or sharing of the
137 consumer's personal information.

138 (x) Personal information transferred by a controller to a
139 third party as an asset that is part of a merger, acquisition,
140 bankruptcy, or other transaction in which the third party
141 assumes control of all or part of the controller, provided that

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142 information is used or shared consistently with this section. If
143 a third party materially alters how it uses or shares the
144 personal information of a consumer in a manner that is
145 materially inconsistent with the commitments or promises made at
146 the time of collection, it shall provide prior notice of the new
147 or changed practice to the consumer. The notice must be
148 sufficiently prominent and robust to ensure that consumers can
149 easily exercise choices consistent with this section.

150 (2) DEFINITIONS.—As used in this section, the term:

151 (a) "Aggregate consumer information" means information
152 that relates to a group or category of consumers, from which the
153 identity of an individual consumer has been removed and is not
154 reasonably capable of being directly or indirectly associated or
155 linked with, any consumer, household, or device. The term does
156 not include personal information that has been deidentified.

157 (b) "Biometric information" means an individual's
158 physiological, biological, or behavioral characteristics that
159 can be used, singly or in combination with each other or with
160 other identifying data, to establish individual identity. The
161 term includes, but is not limited to, imagery of the iris,
162 retina, fingerprint, face, hand, palm, vein patterns, and voice
163 recordings, from which an identifier template, such as a
164 faceprint, a minutiae template, or a voiceprint, can be
165 extracted, and keystroke patterns or rhythms, gait patterns or
166 rhythms, and sleep, health, or exercise data that contain

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167 identifying information.

168 (c) "Collect" means to buy, rent, gather, obtain, receive,
169 or access any personal information pertaining to a consumer by
170 any means. The term includes, but is not limited to, actively or
171 passively receiving information from the consumer or by
172 observing the consumer's behavior or actions.

173 (d) "Consumer" means a natural person who resides in or is
174 domiciled in this state, however identified, including by any
175 unique identifier, who is acting in a personal capacity or
176 household context. The term does not include a natural person
177 acting on behalf of a legal entity in a commercial or employment
178 context.

179 (e) "Controller" means:

180 1. A sole proprietorship, partnership, limited liability
181 company, corporation, association, or legal entity that meets
182 the following requirements:

183 a. Is organized or operated for the profit or financial
184 benefit of its shareholders or owners;

185 b. Does business in this state;

186 c. Collects personal information about consumers, or is
187 the entity on behalf of which such information is collected;

188 d. Determines the purposes and means of processing
189 personal information about consumers alone or jointly with
190 others; and

191 e. Satisfies at least two of the following thresholds:

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192 (I) Has global annual gross revenues in excess of \$50
193 million, as adjusted in January of every odd-numbered year to
194 reflect any increase in the Consumer Price Index.

195 (II) Annually buys, sells, or shares the personal
196 information of 50,000 or more consumers, households, and devices
197 for the purpose of targeted advertising in conjunction with
198 third parties. The 50,000 total only includes personal
199 information that is bought, sold, or shared within the previous
200 12 months.

201 (III) Derives 50 percent or more of its global annual
202 revenues from selling or sharing personal information about
203 consumers.

204 2. Any entity that controls or is controlled by a
205 controller. As used in this subparagraph, the term "control"
206 means:

207 a. Ownership of, or the power to vote, more than 50
208 percent of the outstanding shares of any class of voting
209 security of a controller;

210 b. Control in any manner over the election of a majority
211 of the directors, or of individuals exercising similar
212 functions; or

213 c. The power to exercise a controlling influence over the
214 management of a company.

215 (f) "Deidentified" means information that cannot
216 reasonably be used to infer information about or otherwise be

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217 linked to a particular consumer, provided that the controller
218 that possesses the information:

219 1. Takes reasonable measures to ensure that the
220 information cannot be associated with a specific consumer;

221 2. Maintains and uses the information in deidentified form
222 and not to attempt to reidentify the information, except that
223 the controller may attempt to reidentify the information solely
224 for the purpose of determining whether its deidentification
225 processes satisfy the requirements of this paragraph; and

226 3. Contractually obligates any recipients of the
227 information to comply with all the provisions of this paragraph
228 to avoid reidentifying such information.

229 (g) "Department" means the Department of Legal Affairs.

230 (h) "Device" means a physical object associated with a
231 consumer or household capable of directly or indirectly
232 connecting to the Internet.

233 (i) "Genetic information" means an individual's
234 deoxyribonucleic acid (DNA).

235 (j) "Homepage" means the introductory page of an Internet
236 website and any Internet webpage where personal information is
237 collected. In the case of a mobile application, the homepage is
238 the application's platform page or download page, a link within
239 the application, such as the "About" or "Information"
240 application configurations, or settings page, and any other
241 location that allows consumers to review the notice required by

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242 subsection (7), including, but not limited to, before
243 downloading the application.

244 (k) "Household" means a natural person or a group of
245 people in this state who reside at the same address, share a
246 common device or the same service provided by a controller, and
247 are identified by a controller as sharing the same group account
248 or unique identifier.

249 (l) "Personal information" means information that is
250 linked or reasonably linkable to an identified or identifiable
251 consumer or household, including biometric information, genetic
252 information, and unique identifiers to the consumer. The term
253 does not include consumer information that is:

254 1. Consumer employment contact information, including a
255 position name or title, employment qualifications, emergency
256 contact information, business telephone number, business
257 electronic mail address, employee benefit information, and
258 similar information used solely in an employment context.

259 2. Deidentified or aggregate consumer information.

260 3. Publicly and lawfully available information reasonably
261 believed to be made available to the public in a lawful manner
262 and without legal restrictions:

263 a. From federal, state, or local government records.

264 b. By a widely distributed media source.

265 c. By the consumer or by someone to whom the consumer
266 disclosed the information unless the consumer has purposely and

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267 effectively restricted the information to a certain audience on
268 a private account.

269 (m) "Processing" means any operation or set of operations
270 that are performed on personal information or on sets of
271 personal information, whether or not by automated means.

272 (n) "Processor" means a sole proprietorship, partnership,
273 limited liability company, corporation, association, or other
274 legal entity that is organized or operated for the profit or
275 financial benefit of its shareholders or other owners, that
276 processes information on behalf of a controller and to which the
277 controller discloses a consumer's personal information pursuant
278 to a written contract, provided that the contract prohibits the
279 entity receiving the information from retaining, using, or
280 disclosing the personal information for any purpose other than
281 for the specific purpose of performing the services specified in
282 the contract for the controller, as permitted by this section.

283 (o) "Sell" means to sell, rent, release, disclose,
284 disseminate, make available, transfer, or otherwise communicate
285 orally, in writing, or by electronic or other means, a
286 consumer's personal information by a controller to another
287 controller or a third party for monetary or other valuable
288 consideration.

289 (p) "Share" means to share, rent, release, disclose,
290 disseminate, make available, transfer, or access a consumer's
291 personal information for advertising or marketing. The term

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292 includes:

293 1. Allowing a third party to use or advertise or market to
294 a consumer based on a consumer's personal information without
295 disclosure of the personal information to the third party.

296 2. Monetary transactions, nonmonetary transactions, and
297 transactions for other valuable consideration between a
298 controller and a third party for advertising or marketing for
299 the benefit of a controller.

300 (q) "Targeted advertising" means marketing to a consumer
301 or displaying an advertisement to a consumer when the
302 advertisement is selected based on personal information used to
303 predict such consumer's preferences or interests.

304 (r) "Third party" means a person who is not the controller
305 or the processor.

306 (s) "Verifiable consumer request" means a request related
307 to personal information that is made by a consumer, by a parent
308 or guardian on behalf of a consumer who is a minor child, or by
309 a person authorized by the consumer to act on the consumer's
310 behalf, in a form that is reasonably and readily accessible to
311 consumers and that the controller can reasonably verify to be
312 the consumer, pursuant to rules adopted by the department.

313 (3) CONSUMER DATA COLLECTION REQUIREMENTS AND
314 RESPONSIBILITIES.—

315 (a) A controller that collects personal information about
316 consumers shall maintain an up-to-date online privacy policy and

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317 make such policy available from its homepage. The online privacy
318 policy must include the following information:

319 1. Any Florida-specific consumer privacy rights.

320 2. A list of the types and categories of personal
321 information the controller collects, sells, or shares, or has
322 collected, sold, or shared, about consumers.

323 3. The consumer's right to request deletion or correction
324 of certain personal information.

325 4. The consumer's right to opt-out of the sale or sharing
326 to third parties.

327 (b) A controller that collects personal information shall,
328 at or before the point of collection, inform, or direct the
329 processor to inform, consumers of the categories of personal
330 information to be collected and the purposes for which the
331 categories of personal information will be used.

332 (c) A controller may not collect additional categories of
333 personal information or use personal information collected for
334 additional purposes without providing the consumer with notice
335 consistent with this section.

336 (d) A controller that collects a consumer's personal
337 information shall implement and maintain reasonable security
338 procedures and practices appropriate to the nature of the
339 personal information to protect the personal information from
340 unauthorized or illegal access, destruction, use, modification,
341 or disclosure.

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342 (e) A controller shall adopt and implement a retention
343 schedule that prohibits the use or retention of personal
344 information not subject to an exemption by the controller or
345 processor after the satisfaction of the initial purpose for
346 which such information was collected or obtained, after the
347 expiration or termination of the contract pursuant to which the
348 information was collected or obtained, or 3 years after the
349 consumer's last interaction with the controller. This paragraph
350 does not apply to personal information reasonably used or
351 retained to do any of the following:

352 1. Fulfill the terms of a written warranty or product
353 recall conducted in accordance with federal law.

354 2. Provide a good or service requested by the consumer, or
355 reasonably anticipate the request of such good or service within
356 the context of a controller's ongoing business relationship with
357 the consumer.

358 3. Detect security threats or incidents; protect against
359 malicious, deceptive, fraudulent, unauthorized, or illegal
360 activity or access; or prosecute those responsible for such
361 activity or access.

362 4. Debug to identify and repair errors that impair
363 existing intended functionality.

364 5. Engage in public or peer-reviewed scientific,
365 historical, or statistical research in the public interest that
366 adheres to all other applicable ethics and privacy laws when the

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367 controller's deletion of the information is likely to render
368 impossible or seriously impair the achievement of such research,
369 if the consumer has provided informed consent.

370 6. Enable solely internal uses that are reasonably aligned
371 with the expectations of the consumer based on the consumer's
372 relationship with the controller or that are compatible with the
373 context in which the consumer provided the information.

374 7. Comply with a legal obligation, including any state or
375 federal retention laws.

376 8. As reasonably needed to protect the controller's
377 interests against existing disputes, legal action, or
378 governmental investigations.

379 9. Assure the physical security of persons or property.

380 (4) CONSUMER RIGHT TO REQUEST COPY OF PERSONAL DATA
381 COLLECTED, SOLD, OR SHARED.-

382 (a) A consumer has the right to request that a controller
383 that collects, sells, or shares personal information about the
384 consumer to disclose the following to the consumer:

385 1. The specific pieces of personal information that have
386 been collected about the consumer.

387 2. The categories of sources from which the consumer's
388 personal information was collected.

389 3. The specific pieces of personal information about the
390 consumer that were sold or shared.

391 4. The third parties to which the personal information

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392 about the consumer was sold or shared.

393 5. The categories of personal information about the
394 consumer that were disclosed to a processor.

395 (b) A controller that collects, sells, or shares personal
396 information about a consumer shall disclose the information
397 specified in paragraph (a) to the consumer upon receipt of a
398 verifiable consumer request.

399 (c) This subsection does not require a controller to
400 retain, reidentify, or otherwise link any data that, in the
401 ordinary course of business is not maintained in a manner that
402 would be considered personal information.

403 (d) The controller shall deliver the information required
404 or act on the request in this subsection to a consumer free of
405 charge within 45 calendar days after receiving a verifiable
406 consumer request. The response period may be extended once by 45
407 additional calendar days when reasonably necessary, provided the
408 controller informs the consumer of any such extension within the
409 initial 45-day response period and the reason for the extension.
410 The information must be delivered in a readily usable format. A
411 controller is not obligated to provide information to the
412 consumer if the consumer or a person authorized to act on the
413 consumer's behalf does not provide verification of identity or
414 verification of authorization to act with the permission of the
415 consumer.

416 (e) A controller may provide personal information to a

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417 consumer at any time, but is not required to provide personal
418 information to a consumer more than twice in a 12-month period.

419 (f) This subsection does not apply to personal information
420 relating solely to households.

421 (5) RIGHT TO HAVE PERSONAL INFORMATION DELETED OR
422 CORRECTED.—

423 (a) A consumer has the right to request that a controller
424 delete any personal information about the consumer which the
425 controller has collected from the consumer.

426 1. A controller that receives a verifiable consumer
427 request to delete the consumer's personal information shall
428 delete the consumer's personal information from its records and
429 direct any processors to delete such information within 90
430 calendar days of receipt of the verifiable consumer request.

431 2. A controller or a processor acting pursuant to its
432 contract with the controller may not be required to comply with
433 a consumer's request to delete the consumer's personal
434 information if it is reasonably necessary for the controller or
435 processor to maintain the consumer's personal information to do
436 any of the following:

437 a. Complete the transaction for which the personal
438 information was collected.

439 b. Fulfill the terms of a written warranty or product
440 recall conducted in accordance with federal law.

441 c. Provide a good or service requested by the consumer, or

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442 reasonably anticipate the request of such good or service within
443 the context of a controller's ongoing business relationship with
444 the consumer, or otherwise perform a contract between the
445 controller and the consumer.

446 d. Detect security threats or incidents; protect against
447 malicious, deceptive, fraudulent, unauthorized, or illegal
448 activity or access; or prosecute those responsible for such
449 activity or access.

450 e. Debug to identify and repair errors that impair
451 existing intended functionality.

452 f. Engage in public or peer-reviewed scientific,
453 historical, or statistical research in the public interest that
454 adheres to all other applicable ethics and privacy laws when the
455 controller's deletion of the information is likely to render
456 impossible or seriously impair the achievement of such research,
457 if the consumer has provided informed consent.

458 g. Enable solely internal uses that are reasonably aligned
459 with the expectations of the consumer based on the consumer's
460 relationship with the controller or that are compatible with the
461 context in which the consumer provided the information.

462 h. Comply with a legal obligation, including any state or
463 federal retention laws.

464 i. As reasonably needed to protect the controller's
465 interests against existing disputes, legal action, or
466 governmental investigations.

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467 j. Assure the physical security of persons or property.

468 (b) A consumer has the right to make a request to correct
469 inaccurate personal information to a controller that maintains
470 inaccurate personal information about the consumer. A controller
471 that receives a verifiable consumer request to correct
472 inaccurate personal information shall use commercially
473 reasonable efforts to correct the inaccurate personal
474 information as directed by the consumer and direct any
475 processors to correct such information within 90 calendar days
476 after receipt of the verifiable consumer request. If a
477 controller maintains a self-service mechanism to allow a
478 consumer to correct certain personal information, the controller
479 may require the consumer to correct their own personal
480 information through such mechanism. A controller or a processor
481 acting pursuant to its contract with the controller may not be
482 required to comply with a consumer's request to correct the
483 consumer's personal information if it is reasonably necessary
484 for the controller or processor to maintain the consumer's
485 personal information to do any of the following:

486 1. Complete the transaction for which the personal
487 information was collected.

488 2. Fulfill the terms of a written warranty or product
489 recall conducted in accordance with federal law.

490 3. Detect security threats or incidents; protect against
491 malicious, deceptive, fraudulent, unauthorized, or illegal

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492 activity or access; or prosecute those responsible for such
493 activity or access.

494 4. Debug to identify and repair errors that impair
495 existing intended functionality.

496 5. Enable solely internal uses that are reasonably aligned
497 with the expectations of the consumer based on the consumer's
498 relationship with the controller or that are compatible with the
499 context in which the consumer provided the information.

500 6. Comply with a legal obligation, including any state or
501 federal retention laws.

502 7. As reasonably needed to protect the controller's
503 interests against existing disputes, legal action, or
504 governmental investigations.

505 8. Assure the physical security of persons or property.

506 (6) RIGHT TO OPT-OUT OF THE SALE OR SHARING OF PERSONAL
507 INFORMATION.—

508 (a) A consumer has the right at any time to direct a
509 controller not to sell or share the consumer's personal
510 information to a third party. This right may be referred to as
511 the right to opt-out.

512 (b) Notwithstanding paragraph (a), a controller may not
513 sell or share the personal information of a minor consumer if
514 the controller has actual knowledge that the consumer is not 18
515 years of age or older. However, if a consumer who is between 13
516 and 18 years of age, or if the parent or guardian of a consumer

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517 who is 12 years of age or younger, has affirmatively authorized
518 the sale or sharing of such consumer's personal information,
519 then a controller may sell or share such information in
520 accordance with this section. A controller that willfully
521 disregards the consumer's age is deemed to have actual knowledge
522 of the consumer's age. A controller that complies with the
523 verifiable parental consent requirements of the Children's
524 Online Privacy Protection Act, 15 U.S.C. s. 6501 et seq., shall
525 be deemed compliant with any obligation to obtain parental
526 consent.

527 (c) A controller that has received direction prohibiting
528 the sale or sharing of the consumer's personal information is
529 prohibited from selling or sharing the consumer's personal
530 information beginning 48 hours after receipt of such direction,
531 unless the consumer subsequently provides express authorization
532 for the sale or sharing of the consumer's personal information.

533 (7) FORM TO OPT-OUT OF SALE OR SHARING OF PERSONAL
534 INFORMATION.—

535 (a) A controller shall:

536 1. In a form that is reasonably accessible to consumers,
537 provide a clear and conspicuous link on the controller's
538 Internet homepage, entitled "Do Not Sell or Share My Personal
539 Information," to an Internet webpage that enables a consumer, or
540 a person authorized by the consumer, to opt-out of the sale or
541 sharing of the consumer's personal information. A controller may

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542 not require a consumer to create an account in order to direct
543 the controller not to sell the consumer's personal information.
544 A controller may accept a request to opt-out received through a
545 user-enabled global privacy control, such as a browser plug-in
546 or privacy setting, device setting, or other mechanism, which
547 communicates or signals the consumer's choice to opt out.

548 2. For consumers who opted-out of the sale or sharing of
549 their personal information, respect the consumer's decision to
550 opt-out for at least 12 months before requesting that the
551 consumer authorize the sale or sharing of the consumer's
552 personal information.

553 3. Use any personal information collected from the
554 consumer in connection with the submission of the consumer's
555 opt-out request solely for the purposes of complying with the
556 opt-out request.

557 (b) A consumer may authorize another person to opt-out of
558 the sale or sharing of the consumer's personal information on
559 the consumer's behalf pursuant to rules adopted by the
560 department.

561 (8) ACTIONS RELATED TO CONSUMERS WHO EXERCISE PRIVACY
562 RIGHTS.—

563 (a) A controller may charge a consumer who exercised any
564 of the consumer's rights under this section a different price or
565 rate, or provide a different level or quality of goods or
566 services to the consumer, only if that difference is reasonably

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567 related to the value provided to the controller by the
568 consumer's data or is related to a consumer's voluntary
569 participation in a financial incentive program, including a bona
570 fide loyalty, rewards, premium features, discounts, or club card
571 program offered by the controller.

572 (b) A controller may offer financial incentives, including
573 payments to consumers as compensation, for the collection,
574 sharing, sale, or deletion of personal information if the
575 consumer gives the controller prior consent that clearly
576 describes the material terms of the financial incentive program.
577 The consent may be revoked by the consumer at any time.

578 (c) A controller may not use financial incentive practices
579 that are unjust, unreasonable, coercive, or usurious in nature.

580 (9) CONTRACTS AND ROLES.—

581 (a) Any contract or agreement between a controller and a
582 processor must:

583 1. Prohibit the processor from selling, sharing,
584 retaining, using, or disclosing the personal information for any
585 purpose that violates this section;

586 2. Govern the processor's personal information processing
587 procedures with respect to processing performed on behalf of the
588 controller, including processing instructions, the nature and
589 purpose of processing, the type of information subject to
590 processing, the duration of processing, and the rights and
591 obligations of both the controller and processor;

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592 3. Require the processor to return or delete all personal
593 information under the contract to the controller as requested by
594 the controller at the end of the provision of services, unless
595 retention of the information is required by law; and

596 4. Upon request of the controller, require the processor
597 to make available to the controller all personal information in
598 its possession under the contract or agreement.

599 (b) Determining whether a person is acting as a controller
600 or processor with respect to a specific processing of data is a
601 fact-based determination that depends upon the context in which
602 personal information is to be processed. The contract between a
603 controller and processor must reflect their respective roles and
604 relationships related to handling personal information. A
605 processor that continues to adhere to a controller's
606 instructions with respect to a specific processing of personal
607 information remains a processor.

608 (c) A third party may not sell or share personal
609 information about a consumer that has been sold or shared to the
610 third party by a controller unless the consumer has received
611 explicit notice from the third party and is provided an
612 opportunity to opt-out by the third party.

613 (d) A processor or third party must require any
614 subcontractor to meet the same obligations of such processor or
615 third party with respect to personal information.

616 (e) A processor or third party or any subcontractor

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617 thereof who violates any of the restrictions imposed upon it
618 under this section is liable or responsible for any failure to
619 comply with this section.

620 (f) Any provision of a contract or agreement of any kind
621 that waives or limits in any way a consumer's rights under this
622 section, including, but not limited to, any right to a remedy or
623 means of enforcement, is deemed contrary to public policy and is
624 void and unenforceable. This section does not prevent a consumer
625 from declining to request information from a controller,
626 declining to opt-out of a controller's sale or sharing of the
627 consumer's personal information, or authorizing a controller to
628 sell or share the consumer's personal information after
629 previously opting out.

630 (10) CIVIL ACTIONS; PRIVATE RIGHT OF ACTION.-

631 (a) A Florida consumer may only bring a civil action
632 pursuant to this section against:

633 1. A controller, processor, or third party who has global
634 annual gross revenues of at least \$50 million, but not more than
635 \$500 million, as adjusted in January of every odd-numbered year
636 to reflect any increase in the Consumer Price Index. Upon
637 prevailing, the Florida consumer may be awarded relief described
638 in paragraph (c), but may not be awarded attorney fees or costs.
639 Any private claim solely based on this section against a
640 controller, processor, or third party who has global annual
641 gross revenues of less than \$50 million, is barred.

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642 2. A controller, processor, or third party who has global
643 annual gross revenues of more than \$500 million, as adjusted in
644 January of every odd-numbered year to reflect any increase in
645 the Consumer Price Index. Upon prevailing, the Florida consumer
646 may be awarded relief described in paragraph (c), and shall
647 recover reasonable attorney fees and costs.

648 (b) A Florida consumer may only bring a civil action
649 pursuant to this section against a controller, processor, or
650 third party who meets a threshold in paragraph (a) for the
651 following actions:

652 1. Failure to delete or correct the consumer's personal
653 information pursuant to this section after receiving a
654 verifiable consumer request or directions to delete or correct
655 from a controller unless the controller, processor, or third
656 party qualifies for an exception to the requirements to delete
657 or correct under this section.

658 2. Continuing to sell or share the consumer's personal
659 information after the consumer chooses to opt-out pursuant to
660 this section.

661 3. Selling or sharing the personal information of the
662 consumer age 18 or younger without obtaining consent as required
663 by this section.

664 (c) A court may grant the following relief to a Florida
665 consumer:

666 1. Statutory damages in an amount not less than \$100 and

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667 not greater than \$750 per consumer per incident or actual
668 damages, whichever is greater.

669 2. Injunctive or declaratory relief.

670 (d) A controller, processor, or third party may only be
671 awarded attorney fees if:

672 1. The case was dismissed with prejudice.

673 2. There was fraud on the part of the consumer.

674 3. The consumer is not a Florida consumer.

675 (e) A consumer must commence a civil action for a claim
676 under this section within 1 year after discovery of the
677 violation.

678 (f) Any action under this subsection may only be brought
679 by or on behalf of a Florida consumer.

680 (g) Liability for a tort, contract claim, or consumer
681 protection claim which is unrelated to an action brought under
682 this subsection or subsection (11) does not arise solely from
683 the failure of a controller, processor, or third party to comply
684 with this section and evidence of such may only be used as the
685 basis to prove a cause of action under this subsection.

686 (h) In assessing the amount of statutory damages, the
687 court shall consider any one or more of the relevant
688 circumstances presented by any of the parties to the case,
689 including, but not limited to, the nature and seriousness of the
690 misconduct, the number of violations, the length of time over
691 which the misconduct occurred, and the defendant's assets,

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692 liability, and net worth.

693 (11) ENFORCEMENT AND IMPLEMENTATION BY THE DEPARTMENT.—

694 (a) Any violation of this section is an unfair and
695 deceptive trade practice actionable under part II of chapter 501
696 solely by the department against a controller, processor, or
697 person. If the department has reason to believe that any
698 controller, processor, or third party is in violation of this
699 section, the department, as the enforcement authority, may bring
700 an action against such controller, processor, or third party for
701 an unfair or deceptive act or practice. For the purpose of
702 bringing an action pursuant to this section, ss. 501.211 and
703 501.212 do not apply. Civil penalties may be tripled if the
704 violation:

705 1. Involves a Florida consumer who the controller,
706 processor, or third party has actual knowledge is 18 years of
707 age or younger; or

708 2. Is based on paragraph (10) (b) .

709 (b) After the department has notified a controller,
710 processor, or third party in writing of an alleged violation,
711 the department may in its discretion grant a 45-day period to
712 cure the alleged violation. The 45-day cure period does not
713 apply to a violation of subparagraph (10) (b)1. The department
714 may consider the number and frequency of violations, the
715 substantial likelihood of injury to the public, and the safety
716 of persons or property when determining whether to grant 45

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717 calendar days to cure and the issuance of a letter of guidance.
718 If the violation is cured to the satisfaction of the department
719 and proof of such cure is provided to the department, the
720 department in its discretion may issue a letter of guidance. If
721 the controller, processor, or third party fails to cure the
722 violation within 45 calendar days, the department may bring an
723 action against the controller, processor, or third party for the
724 alleged violation.

725 (c) Any action brought by the department may only be
726 brought on behalf of a Florida consumer.

727 (d) By February 1 of each year, the department shall
728 submit a report to the President of the Senate and the Speaker
729 of the House of Representatives describing any actions taken by
730 the department to enforce this section. The report shall include
731 statistics and relevant information detailing:

732 1. The number of complaints received;

733 2. The number and type of enforcement actions taken and
734 the outcomes of such actions;

735 3. The number of complaints resolved without the need for
736 litigation; and

737 4. The status of the development and implementation of
738 rules to implement this section.

739 (e) The department may adopt rules to implement this
740 section, including standards for verifiable consumer requests,
741 enforcement, data security, and authorized persons who may act

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742 on a consumer's behalf.

743 (12) JURISDICTION.—For purposes of bringing an action in
744 accordance with subsections (10) and (11), any person who meets
745 the definition of controller as defined in this section that
746 collects, shares, or sells the personal information of Florida
747 consumers, is considered to be both engaged in substantial and
748 not isolated activities within this state and operating,
749 conducting, engaging in, or carrying on a business, and doing
750 business in this state, and is therefore subject to the
751 jurisdiction of the courts of this state.

752 (13) PREEMPTION.—This section is a matter of statewide
753 concern and supersedes all rules, regulations, codes,
754 ordinances, and other laws adopted by a city, county, city and
755 county, municipality, or local agency regarding the collection,
756 processing, sharing, or sale of consumer personal information by
757 a controller or processor. The regulation of the collection,
758 processing, sharing, or sale of consumer personal information by
759 a controller or processor is preempted to the state.

760 Section 2. Paragraph (g) of subsection (1) of section
761 501.171, Florida Statutes, is amended to read:

762 501.171 Security of confidential personal information.—

763 (1) DEFINITIONS.—As used in this section, the term:

764 (g)1. "Personal information" means either of the

765 following:

766 a. An individual's first name or first initial and last

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767 name in combination with any one or more of the following data
768 elements for that individual:

769 (I) A social security number;

770 (II) A driver license or identification card number,
771 passport number, military identification number, or other
772 similar number issued on a government document used to verify
773 identity;

774 (III) A financial account number or credit or debit card
775 number, in combination with any required security code, access
776 code, or password that is necessary to permit access to an
777 individual's financial account;

778 (IV) Any information regarding an individual's medical
779 history, mental or physical condition, or medical treatment or
780 diagnosis by a health care professional; or

781 (V) An individual's health insurance policy number or
782 subscriber identification number and any unique identifier used
783 by a health insurer to identify the individual.

784 (VI) An individual's biometric information or genetic
785 information as defined in s. 501.173(2).

786 b. A user name or e-mail address, in combination with a
787 password or security question and answer that would permit
788 access to an online account.

789 2. The term does not include information about an
790 individual that has been made publicly available by a federal,
791 state, or local governmental entity. The term also does not

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792 include information that is encrypted, secured, or modified by
793 any other method or technology that removes elements that
794 personally identify an individual or that otherwise renders the
795 information unusable.

796 Section 3. This act shall take effect January 1, 2023.

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T I T L E A M E N D M E N T

800 Remove everything before the enacting clause and insert:

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A bill to be entitled

802

An act relating to consumer data privacy; creating s.

803

501.173, F.S.; providing applicability; providing

804

definitions; requiring controllers that collect a

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consumer's personal data to disclose certain

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information regarding data collection and selling

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practices to the consumer at or before the point of

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collection; specifying that such information may be

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provided through a general privacy policy or through a

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notice informing the consumer that additional specific

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information will be provided upon a certain request;

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prohibiting controllers from collecting additional

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categories of personal information or using personal

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information for additional purposes without notifying

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the consumer; requiring controllers that collect

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personal information to implement reasonable security

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817 procedures and practices to protect the information;
818 authorizing consumers to request controllers to
819 disclose the specific personal information the
820 controller has collected about the consumer; requiring
821 controllers to make available two or more methods for
822 consumers to request their personal information;
823 requiring controllers to provide such information free
824 of charge within a certain timeframe and in a certain
825 format upon receiving a verifiable consumer request;
826 specifying requirements for third parties with respect
827 to consumer information acquired or used; providing
828 construction; authorizing consumers to request
829 controllers to delete or correct personal information
830 the controllers have collected about the consumers;
831 providing exceptions; specifying requirements for
832 controllers to comply with deletion or correction
833 requests; authorizing consumers to opt out of third-
834 party disclosure of personal information collected by
835 a controller; prohibiting controllers from selling or
836 disclosing the personal information of consumers
837 younger than a certain age, except under certain
838 circumstances; prohibiting controllers from selling or
839 sharing a consumer's information if the consumer has
840 opted out of such disclosure; prohibiting controllers
841 from taking certain actions to retaliate against

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842 consumers who exercise certain rights; providing
843 applicability; providing that a contract or agreement
844 that waives or limits certain consumer rights is void
845 and unenforceable; providing for civil actions and a
846 private right of action for consumers under certain
847 circumstances; providing civil remedies; authorizing
848 the Department of Legal Affairs to bring an action
849 under the Florida Unfair or Deceptive Trade Practices
850 Act and to adopt rules; requiring the department to
851 submit an annual report to the Legislature; providing
852 report requirements; providing that controllers must
853 have a specified timeframe to cure any violations;
854 providing jurisdiction; declaring that the act is
855 matter of statewide concern; preempting the
856 collection, processing, sharing, and sale of consumer
857 personal information to the state; amending s.
858 501.171, F.S.; revising the definition of "personal
859 information"; providing an effective date.